

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

Agri-Energy, LLC  
Luverne, Minnesota

Proceedings Pursuant to  
Section 113(a)(1) of the  
Clean Air Act, 42 U.S.C.  
§ 7413(a)(1)

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) **NOTICE OF VIOLATION**  
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) **EPA-5-01-MN-07**  
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**NOTICE OF VIOLATION**

The Administrator of the United States Environmental Protection Agency (U.S. EPA) is issuing this Notice of Violation under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). U.S. EPA finds that Agri-Energy, LLC (Agri-Energy) violated the Minnesota State Implementation Plan (SIP), as follows:

**Statutory and Regulatory Background**

1. On May 24, 1995, U.S. EPA approved Chapter 7011 of the Minnesota State Rules as part of the federally enforceable SIP (60 Fed. Reg. 27411). These rules include part 7011.1005, which establishes limits for bulk agricultural commodity facilities.
2. Part 7011.1005, subpart 3, of the Minnesota State Rules states in pertinent part, "For a facility where control is required under this section, no owner, operator, or other person who conducts activities at the facility may allow ... (D) a discharge of particulate matter from control equipment ... that exhibits greater than ten percent opacity...."

**FACTUAL BACKGROUND**

3. Agri-Energy owns and operates an ethanol manufacturing facility at 502 South Walnut, Luverne, Rock County, Minnesota (facility), which is subject to Minnesota SIP Rule 7011.1005.
4. On July 16, 1998, the Minnesota Pollution Control Agency issued to Agri-Energy a permit for emissions from its facility. Among other conditions, in accordance with the Minnesota SIP, the permit limited the Distillers' Dried Grain with Solubles (DDGS) dryer stack to emissions of 10% opacity measured on a six-minute average.

5. On September 26, 2000, U.S. EPA performed an inspection of Agri-Energy's facility. Prior to the inspection, U.S. EPA recorded opacity readings on the facility's DDGS stack, in accordance with 40 C.F.R. Part 60, Appendix A, Method 9, during which the certified visible emission reader documented 12 minutes of opacity readings, including two six-minute averages. Both of the six-minute average readings were above the 10% opacity limit required by Agri-Energy's permit and the Minnesota SIP.

**Violations**

6. The opacity exceedences observed on September 26, 2000 at Agri-Energy's facility constitute a violation of Minnesota SIP Rule 7011.1005.

1-18-01

Date



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Bharat Mathur, Director  
Air and Radiation Division

**CERTIFICATE OF MAILING**

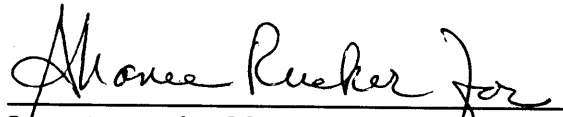
I, Loretta Shaffer, certify that I sent a Notice of Violation, No. EPA-5-01-MN-01, by Certified Mail, Return Receipt Requested, to:

Rick Serie, General Manager  
Agri-Energy, LLC  
502 South Walnut  
Luverne, MN 56156

I also certify that I sent copies of the Notice of Violation by first class mail to:

Ann Foss, Enforcement Manager  
Minnesota Pollution Control Agency  
520 Lafayette Road N.  
St. Paul, Minnesota 55155-4194

on the 18<sup>th</sup> day of January, 2001.

  
Loretta Shaffer, Secretary  
AECAS, (OH/MN)

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